

IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS(O),  
BHUBANESWAR, DIST-KHURDA

Present : Sk. Md. Quais, M.A., LL.M.  
J.M.F.C.(O), BHUBANESWAR

Date of conclusion  
of argument : 22.10.2014

Date of Judgment : 25.10.2014

G.R. No. 793/2013  
Trial Case No. 370/2014

S t a t e

vrs

1. Kalia @ Kalandi Senapati, aged about 50 years,  
S/o. Siba Senapati,  
Village: Kunchapada, PS- Balipatna,  
Dist- Khurda.
  2. Rajesh Kumar Nath, aged about 19 years,  
S/o- Sunil Kumar Nath
  3. Kadambini Nath, aged about 41 years  
W/o- Sunil Kumar Nath
  4. Sunil Kumar Nath, aged about 54 years,  
S/o- Late Sarbananda Nath,
  5. Manas Kumar Nath, aged about 27 years,  
S/o- Sunil Kumar Nath
- All are of Village: Anandapur, PS- Balipatna,  
Dist- Khurda.

... Accused Persons

For offences punishable u/s 341/294/323/354(A)/506/34 of IPC

For the Prosecution : A.P.P

For the Defence : P. K. Satapathy & his  
Associate Advocates.

J U D G M E N T

The accused persons stand charged for offences punishable u/s.  
341/294/323/354(A)/506/34 of IPC for allegedly wrongfully restraining the

informant, uttering obscene words in a public place, voluntarily causing hurt, for committing sexual harassment to the informant and for committing criminal intimidation by issuing threats to the informant in furtherance of their common intention.

2. The case of the prosecution in short is as follows:

That on 01.12.2013 at about 7.30 A.M the informant Padmini Nath appeared at Balipatna PS and presented a written report to the effect that on 30.11.2013 at about 10.00 A.M at Village- Anandpur, the accused Sunil Kumar Nath, father of the informant, accused, Kadambini Nath, mother of the informant, accused, Manas Nath, elder brother of the informant received cash from accused, Kalia @ Kalandi Senapati and compelled her to keep physical relationship with accused, Kalandi Senapati. When the informant protested, the accused persons abused the informant in obscene languages and assaulted the informant. The accused persons also threatened the informant to face dire consequences. Basing upon the report of the informant Balipatna PS Case No. 135 dtd. 01.12.2013 was registered and the matter was investigated into. After completion of investigation, charge sheet u/s 341/294/323/354(A)/506/34 of IPC was submitted against the accused persons to face their trial in court of law.

3. The plea of the accused persons could not be recorded due to want of incriminating material.

4. The points to be determined are as follows ;

- (i) Whether on 30.11.2013 at about 10.00 A.M at Village- Anandpur the accused persons in furtherance of their common intention wrongfully restrained the informant from proceeding to any direction

which she had got right to proceed ?

- (ii) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention abused the informant by uttering any obscene words in or near a public place causing annoyance to the informant and others ?
- (iii) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention voluntarily caused hurt to the informant ?
- (iv) Whether on the aforesaid date, time and place of occurrence, the accused persons in furtherance of their common intention committed sexual harassment to the informant by demanding and requesting for sexual favours towards accused, Kalandi Senapati ?
- (v) Whether on the aforesaid date, time and place of occurrence the accused persons in furtherance of their common intention committed criminal intimidation by issuing threats to the informant, with injury to her person with intent to cause alarm in her mind ?

5. To substantiate the charge, prosecution has examined three witnesses in all out of whom P.W.1, Padmini Nath is the informant and victim of this case. P.W.2, Bijay Kumar Patnaik and P.W.3, Anil Kumar Das are the witnesses to occurrence. Examination of the rest witnesses has been declined by the prosecution. Defence has examined none on its behalf.

6. P.W.1, the informant has deposed that due to some misunderstanding there was some dispute with accused persons which she has settled amicably. She doesn't want to proceed further with this

case. During cross-examination, P.W.1 deposed that she is residing peacefully with accused persons. She admitted to have got no allegation against the accused persons. P.W.2 and P.W.3 deposed that they were not examined by police. Examination of rest of the witnesses was declined by the prosecution.

7. From the aforesaid evidence of prosecution witnesses it appears that none of the witnesses has whispered a single word against the accused persons. The informant has not corroborated her own FIR story. Although FIR has been marked as Ext.-1, the FIR is not a substantive piece of evidence but it can be used only to corroborate and contradict the maker thereof, while the informant (P.W.1) being the maker of the FIR (Ext.1) does not corroborate the FIR story, Prosecution cannot take any benefit out of the FIR (Ext.-1). Under the above circumstances, I find no incriminating material against the accused persons.

In the result, I hold the accused persons not guilty of the offences punishable u/s 341/294/323/354(A)/506/34 of IPC and acquit them there from u/s 248(1) of Cr.PC. They be set at liberty forthwith and they are discharged from their bail bonds.

Enter the case as mistake of fact.

**J.M.F.C.(O), Bhubaneswar**

Dictated, corrected and pronounced in the open court on this the 25<sup>th</sup> day of October, 2014 under my hand signature and seal of this court.

**J.M.F.C.(O), Bhubaneswar**

List of witnesses examined for prosecution

PW.1	Padmini Nath
PW.2	Bijay Kumar Patnaik
PW.3	Anil Kumar Das

List of witnesses examined for defence

N o n e

List of documents admitted in evidence for prosecution

Ext.-1	FIR.
Ext.-1/1	Signature of PW.1 on Ext.-1.

List of documents admitted in evidence for defence

N I L

**J.M.F.C.(O), Bhubaneswar**

